COUNCIL OF
THE EUROPEAN UNION

Brussels, 10 July 2008

10383/08

LIMITE

PV/CONS 36
JAI 311

DRAFT MINUTES ¹

Subject: 2873rd meeting of the Council of the European Union (JUSTICE and HOME AFFAIRS), held in Luxembourg on 5 and 6 June 2008

¹ Information concerning the final adoption of Council acts which may be released to the public may be found in Addendum 1 to these minutes.
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1. **Adoption of the agenda**  
   10079/08 OJ/CONS 31 JAI 284 COMIX 451

   The Council adopted the agenda as set out in 10079/08.

2. **Approval of the list of "A" items**  
   10081/08 PTS A 27

   The Council approved the "A" items listed in 10081/08, with the exception of item 38, on 5 June 2008. Item 38 of the same document was adopted on 6 June 2008.

   Information relating to items 36, 37 and 38 is set out in **Addendum 1** to these minutes.

   The documents in item 37. should read as follows:

   **Item 37**: PE-CONS 3608/08 VISA 37 FRONT 18 COMIX 93 CODEC 130  
   9547/1/08 REV 1 CODEC 613 VISA 187 FRONT 47 COMIX 403  
   + REV 1 COR 1 (da)

   (Public deliberation pursuant to Article 8(1)(c))

   The Council took note of the Presidency's report to the Mixed Committee at Ministerial Level.

   The Maltese delegation made the statement contained in the **Annex** to these minutes.
   10215/08 ASIM 46

The Council held a debate on this item and charged its bodies to pursue work with a view to resolving outstanding issues.

5. **Resettlement of the refugees from Iraq**

The Council held an exchange of views at the request of the German delegation and noted that many Member States expressed their readiness to offer resettlement opportunities.

6. **Draft Council Decision on the implementation of Decision 2008/…/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime**
   – General approach
   9320/08 CRIMORG 73 ENFOPOL 91
   9152/08 CRIMORG 69 ENFOPOL 87
   + ADD 1
   + ADD 1 REV 1 (el)
   + ADD 1 REV 2 (pl)

The Council reached a general approach on the draft Council Decision.

7. **Terrorism – Report by the Counter-Terrorism Coordinator**

(a) **Progress report on the implementation of the Strategy and Action Plan to combat terrorism**
   9416/1/08 REV 1 JAI 242 ECOFIN 178 TRANS 148 RELEX 310 ECO 57
   PESC 564 COTER 29 COSDP 384 PROCV 64 ENER 143 ATO 40
   DATAPROTECT 24 TELECOM 70
   + ADD 1 REV 1
(b) **Follow-up of the CTC discussion paper on the implementation of the EU Counter-terrorism strategy**

9417/08 JAI 243 ECOFIN 179 TRANS 149 RELEX 311 ECO 58 PESC 565 COTER 30 COSDP 385 PROCIV 65 ENER 144 ATO 41 DATAPROTECT 25 TELECOM 71

The Council took note of the reports of the Counter-Terrorism Coordinator. A number of Member States shared the CTC's main concerns, especially on radicalisation and recruitment prevention, on communication strategies, on the necessity to develop information sharing and cooperation through national counter-terrorism platforms and on targeted regional approaches.

8. **Draft Agreement between the European Union and Australia on the processing and transfer of European Union sourced passenger name record data by air carriers**
   – General approach
     9127/2/08 REV 2 JAI 222 AUS 6 RELEX 281 DATAPROTECT 21
     + REV 2 COR 1
     9508/1/08 REV 1 JAI 249 AUS 8 RELEX 320 DATAPROTECT 26

The Council accepted the proposal by the Presidency, subject to a parliamentary scrutiny reservation by Ireland.

   – Information about the 1st reading agreement

The Council took note of the agreement reached in the first reading.

    – State of play

The Council took note of the state of play on this file.
11. **Initiative of the Republic of Slovenia, the French Republic, the Czech Republic, the Kingdom of Sweden, the Slovak Republic, the United Kingdom and the Federal Republic of Germany with a view to adopting a Council Framework Decision on the enforcement of decisions rendered in absentia and amending Framework Decision 2002/584/JHA on the European 2005/214/JHA on the application of the principle of mutual recognition to financial penalties, Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders and Framework Decision 2008/…/JHA on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union**

- General approach
  10160/08 COPEN 111

The Council unanimously reached a general approach on the draft Framework Decision on "in absentia", awaiting the opinion of the European Parliament. The text as agreed by the Council is set out in 10435/08 COPEN 120.

The Council invited the JHA Counsellors to examine the certificates and finalise the text. After revision of the entire text by the legal-linguists, and subsequent to lifting of the outstanding Parliamentary scrutiny reserves (Denmark, Ireland, the Netherlands and Sweden), the Framework Decision will be adopted at a future Council meeting.


- General approach on certain issues
  9980/1/08 REV 1 COPEN 104 EUROJUST 54 EJN 40
  + REV 1 COR 1

The Outcome of proceedings is found in 10663/08 COPEN 122 EUROJUST 60 EJN 45.
13. **Proposal for a Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations**
   
   – Political guidelines and agreement on certain aspects
   
   10045/08 JUSTCIV 114

   The Council endorsed the political guidelines with the suggested compromise solution and invited the Committee on Civil Law Matters (Maintenance Obligations) to pursue its work on the proposed Regulation on this basis with a view to finalising the discussions as soon as possible.


   – Political guidelines
   
   9985/08 JUSTCIV 111
   
   + REV 1 (sk)
   
   9142/08 JUR 191 JUSTCIV 93
   
   8038/08 JUR 148 JUSTCIV 62

   The Council:

   – noted that by way of compromise a large majority of Member States could agree to the text of the Regulation on the basis of 9712/08 JUSTCIV 106;
   – took note that there was no unanimity to go ahead with the Rome III Regulation and that insurmountable difficulties existed, making unanimity impossible now and in the foreseeable future;
   – established that the objectives of Rome III could not be attained within a reasonable period by applying the relevant provisions of the Treaties;
instructed the Committee on Civil Law Matters (Rome III) to continue examining the conditions and implications of possibly establishing enhanced cooperation between Member States on the basis of the opinion of the Legal Service of the Council and to report to the Permanent Representatives Committee/Council at the earliest opportunity.

15. **E-justice**
   - State of play and future work
     9695/08 JURINFO 34 JAI 263 JUSTCIV 104 COPEN 98

   The Council:

   - took note of the report;
   - noted that the Commission adopted on 30 May 2008 its communication on e-Justice;
   - invited the Working Party to continue work in line with the priorities defined by the Council as set out in 9695/08.

16. **External dimension of JHA**

   - Report on implementation of JHA external strategy
     9572/08 JAI 253 RELEX 325
     9573/08 JAI 254 RELEX 326
     9391/08 JAI 237 RELEX 305

   - Presentation by the Presidency on the Ministerial meetings with Russia and with Ukraine
     8638/08 JAI 189 RELEX 242 NIS 61 COEST 80

   The Presidency stated that the reports of the Council Secretariat and of the Commission were presented in accordance with the JHA External Relations Strategy.

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1 9142/08 JUR 191 JUSTCIV 93.
The Czech Republic asked for an amendment in the CSG report, in order to include cooperation with Eastern and South-Eastern Europe. It was agreed that the discussion on content would take place under the French Presidency.

17. **Any Other Business**

- The problem of illegal immigration in Greece as EU's external border
  = Follow-up

This item was discussed at the Mixed Committee at Ministerial level.
Re: Item 3 on the agenda

Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals

STATEMENT BY MALTA

"Malta declares that it continues to maintain that in view of circumstances prevailing at EU external borders as regards illegal immigration, the subject of Detention should remain in the hands of the individual Member States to determine.

In a spirit of compromise, Malta, however, can agree to this Proposal, since it leaves the decision to Member States as to whether or not to apply this Directive to the categories of third-country nationals listed in Article 2(2)(a) and (b) of the Directive."

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